

## **REMARKS**

### **Status of the Claims**

Claims 1-11, 13-46, 58-62, and 64-68 are pending in the present application. Claims 2-11, 13-20, 32-46, 58-61, and 64 are withdrawn as directed to a non-elected invention. Claims 12, 47-57, and 63 were previously canceled. These remarks are further to the remarks and amendment submitted to the Office on February 16, 2010. Reconsideration is respectfully requested.

### **Rejections under 35 U.S.C. § 103**

#### *Murphy, Gold, and Jian*

Claims 1, 12, 21-31, 62-63, and 65-68 are rejected under 35 U.S.C. § 103(a) as allegedly obvious over U.S. Publication No. 2002-0049151 to Murphy *et al.*, ("Murphy"), in view of U.S. Patent No. 6,576,464 to Gold *et al.*, ("Gold"), and Jian Weiguo *et al.*, *Proceedings of the American Association Cancer Research Annual Meeting*, 2003, 44:1300-1301., ("Jian"), *see Office Action*, pages 7-8. Applicants respectfully traverse.

In addition to the remarks submitted on February 16, 2010, Applicants further wish to argue against the alleged obviousness of the instant claims in view of Gold, Murphy, and Jian based upon the fact that Jian does not qualify as prior art under 35 U.S.C. § 102(b). Jian is not prior art under 35 U.S.C. § 102(b) since the Jian reference was published in July, 2003, which is less than a year from the February 25, 2004, filing date of U.S. Provisional Application No. 60/547,058 to which the instant application claims the benefit of priority. Applicants further submit that the pending, rejected claims are adequately supported by U.S. Provisional Application No. 60/547,058 and are, accordingly, entitled to the February 25, 2004 priority date.

In view of the foregoing remarks and the February 16, 2010, amendment and remarks, the claims are not obvious in view of Murphy, Gold and Jian. Accordingly, withdrawal of the rejection is respectfully requested.

**CONCLUSION**

In view of the above remarks, Applicants believe the pending application is in condition for allowance.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Linda T. Parker, PhD, Registration No. at the telephone number of the undersigned below to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Director is hereby authorized in this, concurrent, and future replies to charge any fees required during the pendency of the above-identified application or credit any overpayment to Deposit Account No. 02-2448.

Dated: MAR 17 2010

Respectfully submitted,

By 

Gerald M. Murphy, Jr.

Registration No.: 28977

BIRCH, STEWART, KOLASCH & BIRCH, LLP

8110 Gatehouse Road, Suite 100 East

P.O. Box 747

Falls Church, VA 22040-0747

703-205-8000